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October 25, 2002

WRITTEN EX PARTE

Ms Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 02-307 Ex Parte # 2

Dear Ms Dortch:

In a meeting on October 17, 2002, the staff of the Wireline Competition Division reviewing the BellSouth application for authorization to provide interLATA services in Florida and Tennessee asked BellSouth to identify those issues raised by commenters in this proceeding that had been addressed in earlier BellSouth 271 applications. In response to that request BellSouth has prepared the following list of issues and citations to earlier BellSouth 271 Orders. While it is not exhaustive, this list does identify at least some issues raised in this proceeding that were raised and addressed in BellSouth's prior applications.

Public Interest:

Allegation: Network Telephone alleges that BellSouth ties its offering of ADSL and Internet service to BellSouth voice lines.

Precedent: The Commission specifically rejected this claim in BellSouth's Georgia/Louisiana application. See *Georgia/Louisiana Order*, para. 157 ("Commenters allege that BellSouth will not offer its DSL service over a competitive LEC's UNE-P voice service on that same line. We reject these claims because, under our rules, the incumbent LEC has no obligation to provide DSL service over the competitive LEC's leased facilities...[a]ccordingly, we cannot agree with commenters that BellSouth's policy is discriminatory.")

Checklist Item #2:

Allegation: Supra asserts that BellSouth documents indicate that the LENS interface is not the same in all 9 states.

Precedent: Supra offered no support for its contention that LENS is not a region-wide system other than the conclusory allegation that “[t]he LENS interface is not the same in all nine states according to recent BellSouth documents.” (*Supra Comments*, at para. 16). BellSouth is not familiar with the documents to which Supra is referring. The regionality of BellSouth’s OSS, however, including LENS, was thoroughly assessed by the Commission in Georgia/Louisiana and the 5-State Application. In each instance, the Commission determined that BellSouth’s OSS are regional. A conclusory allegation such as that made by Supra should provide no grounds for revisiting the Commission’s conclusions. See *Georgia/Louisiana Order*, para. 110 (“[w]e conclude that BellSouth, through the PwC review and other aspects of its application, provides sufficient evidence that its electronic processes are the same in Georgia and Louisiana”); *5-State Order*, para. 133 (“BellSouth has provided detailed information regarding the ‘sameness’ of BellSouth’s systems in the five states, including their manual systems and the way in which BellSouth personnel do their jobs.”)

Allegation: COVAD complains of no third party test in TN and the inappropriateness of applying the FL test to TN.

Precedent: With respect to the issue of whether a third party test from one state is applicable in another state, the Commission thoroughly considered this issue in both the Georgia/Louisiana and the 5-State Application. Because BellSouth’s OSS are regional, the Commission found that the Georgia Third Party Test provided probative evidence of BellSouth’s compliance with checklist item 2 in 6 other states. See *Georgia/Louisiana Order*, para. 108 (“we find that the results of KPMG’s test in Georgia provide meaningful evidence that is relevant to our analysis of BellSouth’s OSS”); *5-State Order*, para. 130 (“[w]e shall consider BellSouth’s commercial OSS performance in Georgia and the Georgia third party test to support this application”).

BellSouth will address Covad’s allegations regarding the results of the Florida OSS test in this application.

Data Reliability:

Allegation: Mpower complains regarding the reporting of performance measures. Is this an issue that can be addressed during a review of the performance plan?

Precedent: The Commission considered this issue in the *Georgia/Louisiana Order*, para. 17 (Mpower alleges that “BellSouth’s metric data is not provided in a manner that allows competing carriers to readily verify whether BellSouth’s

performance is meeting state-established standards.”). While the Commission did not explicitly address this complaint, it did conclude, after having considered the complaint, that BellSouth’s performance metric data “is accurate, reliable, and useful.” *Georgia/Louisiana Order*, para. 19. In response to the second inquiry, this is precisely the sort of fact-based issue that can be considered by a state commission in a six-month review should a CLEC choose to raise it.

Loop Makeup:

Allegation: Covad alleges that BellSouth denies CLECs access to the raw data underlying the prequalification tool.

Precedent: While Covad did not raise this specific claim in either of BellSouth’s prior two applications, it did make various other allegations as to why BellSouth was failing to provide non-discriminatory access to loop makeup information. See *Georgia/Louisiana Order*, para. 113-115; *5-State Order*, para. 142-143. In each instance, the Commission rejected Covad’s claims and found that BellSouth provided nondiscriminatory access to loop makeup information in accordance with its obligations. See *Georgia/Louisiana Order*, para. 112 (“we find that BellSouth provides competitors with access to all of the same detailed information about the loop that is available to itself and in the same time frame as any of its personnel could obtain it”); *5-State Order*, para. 141 (“[w]e find, as did the state commissions, that BellSouth provides competitive LECs with access to loop qualification information consistent with the requirements of the *UNE Remand Order*.”)

Ordering:

Allegation: Mpower contends that BellSouth’s policies and procedures governing calls into BellSouth’s ordering center, the LCSC are inefficient.

Precedent: While the Commission did not specifically address this allegation in the *Georgia/Louisiana Order*, it was raised by Mpower in its Joint Comments in Georgia/Louisiana I and addressed in paragraph 8 of the Reply Affidavit of Ken L. Ainsworth. The Commission did not find the allegation sufficient to necessitate a finding of non-compliance.

Provisioning/Maintenance & Repair/Change Management/Billing

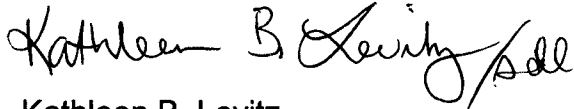
Allegation: Covad asserts that BellSouth begins to bill them for services prior to actually provisioning it.

Precedent: Covad raised this issue in the 5-State Application. In paragraph 166, the FCC found that “[w]e recognize the inconvenience that this may cause Covad, but find that Covad’s allegations do not indicate systemic problems with BellSouth’s ordering process. Given the small number of orders affected at this

time, we do not believe that the minor additional costs and delays that this problem imposes on competitive LECs are competitively significant." *5-State Order*, para. 166.

In accordance with Section 1.1206, I am filing this notice and the attached responses electronically and request that you please place them in the record of the proceeding identified above. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen B. Levitz", with a stylized flourish at the end.

Kathleen B. Levitz

cc: Michelle Carey
Greg Cooke
Christine Newcomb
Janice Myles
Luin Fitch
James Davis-Smith
Sara Kyle
Beth Keating